



**STATE OF INDIANA
ALCOHOL AND TOBACCO COMMISSION**

302 West Washington Street, IGCS, Room E-114
Indianapolis, Indiana 46204
www.IN.gov/atc

To: All Local Alcoholic Beverage Board Members

From: Dave Heath, Chairman

Re: Local Board Criteria for Farm Winery Satellite Dealer Permit (Type 305-1)

Date: January 18, 2008

Introduction

The Farm Winery Satellite Dealer Permit (“Satellite Dealer Permit”) allows a farm winery to maintain up to three (3) additional locations that are separate from the winery (“Satellite Locations”), in which the winery may sell wine to the public or conduct any other business that is authorized under the Farm Winery Permit, except manufacture wine. Since the Satellite Dealer Permit is similar to a “dealer” permit in character, the Indiana Alcohol and Tobacco Commission (“Commission”) has determined that the local community should have a voice in licensing these Satellite Locations.

The local boards will play a vital role in ensuring that the Satellite Locations are appropriate for local communities. Although the authority to issue or deny the Satellite Dealer Permit ultimately lies with the Commission, the local board’s recommendation to the Commission is a crucial part of the application process, since the local board is the Commission’s “eyes and ears” in the respective local community.

Permit Term

The Satellite Dealer Permit will be renewed on a two-year cycle and will expire on June 30th.

Application Requirement

All applicants must submit to the Commission an Application for New and Transfer Permit (State Form 51189), Property Tax Clearance Schedule Form No.1 (State Form 1462), and floor plan. At the time of the local board hearing, the applicant must complete, sign and deliver to the Designated Member (usually an Excise Officer) an Affidavit of Compliance Regarding Notice Posting (State Form 51188). There is no fee to obtain the Satellite Dealer Permit. All applicants must pass premises inspection conducted by the Indiana State Excise Police.

Notification to the Community Required

All applicants must post a Public Notice of Application for Alcoholic Beverage Permit (“Orange Sign”). The Orange Sign must be posted in a manner that is visible from the nearest and largest public thoroughfare in the vicinity of the applicant’s location. The Orange Sign must be posted for the ten (10) days prior to the applicant’s scheduled local board hearing and until said local board hears the application matter. The Orange Sign is issued by the Commission and costs Two Dollars (\$2). Although there is no application fee for a Satellite Dealer Permit, each applicant is required to pay for the Orange Sign.

Local Board Criteria

Unlike a regular retailer or dealer permit application, the local board is limited in its determination when considering an application for a Satellite Dealer Permit. The local board’s primary focus should be the impact of the additional location on the respective community. The following factors should be considered by the local board when evaluating the Satellite Dealer Permit application:

- The local board may consider whether the proposed site of a Satellite Location is appropriate.
- The local board may consider the need for the products and services at the proposed location. For example, are the products and services to be offered at the Satellite Location primarily different than the products and services offered in close geographic proximity?
- The local board may consider the community’s desire for the permit. For example, would local people or visitors to the community purchase wine products at that location, if they were available?
- The local board may consider the impact of the Satellite Location on the community, including its impact on nearby businesses. For example, will there be an economic impact of the Satellite Location on the local economy? The local board should advise the Commission as to any community impacts or community sentiment relating to the additional location. Also, local boards should advise the Commission if any nearby businesses would be especially affected by the additional location, such as businesses catering to or attracting children.

- The local board may not consider the economic effect of a Satellite Location on existing licensees. For example, claimed impact on the profitability of a competing licensee is not a permissible factor in evaluating a Satellite Dealer Permit application.

Although we hope these guidelines will assist the local board, a determination of whether there exists a need and desire for the services at the Satellite Location in question turns on the facts of each case. For example, a farm winery located in one county may set up its Satellite Location in a different county where the local community concern may differ. Furthermore, this policy only applies to additional locations used for sales to the public, not additional locations that the winery will use solely for warehousing purposes.

Renewal Criteria

For renewal applications, the local board is to consider the same factors as in other renewal situations. The local board shall consider the following factors:

- Does the applicant maintain a high and fine reputation, and is of good moral character and good repute in the community?
- Did the applicant allow the licensed premises to become a public nuisance, or the scene of acts or conduct which are prohibited by the criminal laws of Indiana or the United States?
- Did the applicant violate or refuse to comply with a provision or a rule or regulation of the Commission?
- Has the applicant ceased to possess any of the qualifications, including alteration or cessation of the particular business or type of business then engaged in, which qualifies him to hold that particular type of permit?
- Did the applicant fully disclose the true facts in respect to the location of the permit?

Commission Contact Information

Please do not hesitate to contact us with any questions or comments. For all application questions, please contact Shirley Kirby, Office Manager, at (317) 232-2468, skirby@atc.in.gov. For all legal questions, please contact U-Jung Choe, Executive Secretary and Hearing Judge, at (317) 232-2472, uchoe@atc.in.gov, or Melissa Coxey, Staff Attorney, at (317) 234-4737, mcoxey@atc.in.gov.

Thank you for your commitment to serve the State of Indiana and your respective local community.